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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,203	06/27/2003	Tom Garrison	GAR03 P-103	7644

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VAN DYKE, GARDNER, LINN AND BURKHART, LLP
2851 CHARLEVOIX DRIVE, S.E.
P.O. BOX 888695
GRAND RAPIDS, MI 49588-8695

EXAMINER

LEWIS, RALPH A

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/608,203

Applicant(s)

GARRISON ET AL.

Examiner

Ralph A. Lewis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner. (Informal)
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 09 June 2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Election of Species

Applicant's election without traverse in the response of 22 December 2005 of Species V is acknowledged. Upon further review of the claimed subject matter, the examiner is of the position that the variations between the identified species don't appear to warrant a restriction at this time and the election of species requirement is withdrawn.

Rejections based on 35 U.S.C. 112, second paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 12, lines 1 and 2, there is no antecedent basis for "said triangular shaped cross-section" or "said trapezoidal-shaped cross-section."

Rejections based on Prior Art

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by von Weissenfluh (US 4,631,030).

Note the trapezoidal end 1''' connected with the triangular cross-section shaped portion.

Claims 1, 6, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Fischer et al (US 5,890,900).

Note the prior art Figure 1 dental wedge having a trapezoidal proximal end connected with the triangular cross-section shaped portion.

Claims 10, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Rawls et al (US 5,527,181).

Note elastic outer portion 16 covering a harder core portion.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer et al (US 5,890,900) in view of Fischer et al (US 6,402,514).

Fischer et al in '900 discloses in Figure 1 a typical the prior art dental wedge having a trapezoidal proximal end connected with the triangular cross-section shaped portion. The distal tip in the prior art Figure 1 dental wedge is not rounded, however, Fischer et al '514 is cited to illustrate that such tips are typically rounded so as not to poke the patient's gums during insertion between the teeth. To have rounded the tip of prior art Fischer '900 wedge to avoid poking the patient's gums during insertion would have been obvious to one of ordinary skill in the art in light of the teaching by Fischer et al '514.

Claims 4-7 and 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer et al (US 5,890,900) in view of Mecham (US 2,867,905).

Fischer et al in '900 discloses in Figure 1 a typical the prior art dental wedge having a trapezoidal proximal end connected with the triangular cross-section shaped portion. The edges where the triangular sides connect with the base are not rounded as claimed, however, Mecham discloses a dental wedge having a triangular cross-section that tapers toward the distal end 16. The Mecham dental wedge is coated with an elastic thermoplastic that deforms to aid in holding the wedge in place and which rounds the edges where the triangular sides join with the base in rounded edges. To have coated the prior art Fischer et al Figure 1 dental wedge with an elastic material in order

to aid in its placement as is known in the art and taught by Mecham would have been obvious to one of ordinary skill in the art.

Claims 10, 13-15 and 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mecham (US 2,867,905) in view of Fischer et al (US 6,402,514).

Mecham discloses a dental wedge having a triangular cross-section that tapers toward the distal end 16. The dental wedge has a harder core material 10 and an elastic thermoplastic outer layer 12. In the embodiment of Figure 6, the triangular sides join with the base in rounded edges. The tip of Mecham 16 appears to be fairly pointed, however, Fischer et al is cited to illustrate that such tips are typically rounded so as not to poke the patient's gums during insertion between the teeth. To have rounded the tip of Mecham wedge to avoid poking the patient's gums during insertion would have been obvious to one of ordinary skill in the art in light of the teaching by Fischer et al.

Claims 22-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer et al (US 5,890,900) in view of Mecham (US 2,867,905) as applied above with regard to claims 4-7 and 10-16 and in further view of Fischer et al (US 6,402,514).

Fischer et al in '900 discloses in Figure 1 a typical the prior art dental wedge having a trapezoidal proximal end connected with the triangular cross-section shaped portion. The distal tip in the prior art Figure 1 dental wedge is not rounded, however, Fischer et al '514 is cited to illustrate that such tips are typically rounded so as not to poke the patient's gums during insertion between the teeth. To have rounded the tip of

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prior art Fischer '900 wedge to avoid poking the patient's gums during insertion would have been obvious to one of ordinary skill in the art in light of the teaching by Fischer et al '514.

Prior Art


Applicant's information disclosure statement of June 09, 2004 has been considered and an initialed copy enclosed herewith.

Arlens (US 3,473,226), Tofflemire (US 3,636,631), Crowley (US 2,891,313), Walthall (US 3,510,948), Fischer et al (US 5,890,901) and Stan wich et al (US 6,482,007) are made of record.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(571) 272-4712**. Fax (571) 273-8300. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Kevin Shaver, can be reached at (571) 272-4720.

R. Lewis
March 3, 2006


Ralph A. Lewis
Primary Examiner
AU 3732